STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

V

GREGORY A. SMITH,

Defendant-Appellant.

UNPUBLISHED
October 15, 2002

No. 234903
Wayne Circuit Court
LC No. 00-009424

Before: Murphy, P.J., and Markey and R. S. Gribbs[*], JJ.

PER CURIAM.

Defendant appeals as of right from his convictions for attempting to knowingly or intentionally possess less than 25 grams of a mixture containing a controlled substance (cocaine), in violation of MCL 333.7403(2)(a)(v), and of attempting to knowingly or intentionally possess a controlled substance (marijuana), in violation of MCL 333.7403(2)(d). The sole issue on appeal is whether the evidence against defendant should have been suppressed on the ground that it was obtained illegally without probable cause, in violation of the rights guaranteed by the Fourth Amendment to the United States Constitution and the standard set forth in *Terry v Ohio*, 392 US 1; 88 S Ct 1868; 20 L Ed 2d 889 (1968), and its progeny. We affirm.

We review a trial court's factual findings made in connection with a motion to suppress evidence by a clearly erroneous standard, and review its conclusions of law and its ultimate decision on the motion de novo. *People v Garvin*, 235 Mich App 90, 96-97; 597 NW2d 194 (1999). Viewed by this standard, we find no error.

We find it unnecessary to determine whether defendant was being "detained" by police at the time the K-9 unit had its drug-detecting dog circle defendant's vehicle, because the police had, based on a totality of the circumstances, reasonable suspicion that defendant was engaged in criminal activity; therefore, the police had the authority to detain defendant. *Terry*, *supra*. The area where defendant was parked was known by police for having an extremely high rate of drug activity, defendant and his vehicle were identified by the police prior to defendant being approached, defendant was known by police to have engaged in past illegal drug and weapon activity, defendant and his companion repeatedly stared at an officer as the officer slowly circled the area in his cruiser, and there were no trespassing signs, visibly posted, where defendant was parked. The arresting officer testified that he knew defendant did not live in the apartment

[*] Former Court of Appeals judge, sitting on the Court of Appeals by assignment.

complex before approaching defendant's vehicle, and that the majority of arrests for drug trafficking at the complex involved nonresidents. This being the case, defendant's argument is restricted to the contention that police illegally allowed the drug-detecting dog, without defendant's permission, to sniff the outside of his car while he was inside it, and therefore, that the search was illegal.

However, the United States Supreme Court has held, in *United States v Place,* 462 US 696, 707; 103 S Ct 2637; 77 L Ed 2d 110 (1983), that "exposure of respondent's [property], which was located in a public place, to a trained canine . . . did not constitute a 'search' within the meaning of the Fourth Amendment," and defendant concedes that once a dog has detected drugs, probable cause exists for police to conduct a warrantless search. Accordingly, neither the search leading to the seizure of the drugs nor the seizure itself was constitutionally deficient, and the trial court correctly denied defendant's motion to suppress the drug evidence found by police.

Affirmed.

/s/ William B. Murphy
/s/ Jane E. Markey
/s/ Roman S. Gribbs